IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

CRP.No. 990 of 2007()

AGAINST THE ORDER DATED 15/09/2007 IN IA.1601/2007 IN OS.222/2006 of MUNSIFF COURT, CHANGANACHERRY
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REVN. PETITIONER: DEFENDANTS
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1. LALU K.JOHN, KOCHERIL HOUSE,
VAKATHANAM VILLAGE, VAKATHANAM KARA.

2. PHILIP K.VARKEY, KOCHERIL HOUSE,
VAKATHANAM VILLAGE, VAKATHANAM KARA.

BY ADV. SRI.JOSEKUTTY MATHEW

RESPONDENTS: PLAINTIFF

P.J.THOMAS, KOCHERIL HOUSE,
VAKATHANAM VILLAGE, VAKATHANAM KARA.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 16/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 990 OF 2007

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Dated this the 16th day of November, 2007.

O R D E R

This revision petition is preferred against the order of the Munsiff, Changanacherry in I.A.1601/07 in O.S.222/06. It is an application filed by the defendants for the issuance of a Commission. They have filed a counter claim, therein they have prayed for fixing the northern boundary of the counter claim schedule property. That has been resisted by the other side. The Court below had considered the matter and held that already a Commissioner had been appointed in the suit and in that report the Commissioner had clearly identified the plaint schedule property and the separating boundary with the counter claim schedule property. It is stated that on the southern side of the plaint schedule property from west to east six boundary stones are planted and thus the southern boundary of plaint schedule property is fixed. The southern boundary of the plaint schedule property has necessarily to be the northern boundary of the counter claim schedule property. So prima facie materials are available before Court

regarding the boundary. Unless and until it is proved to be wrong by cogent evidence, successive Commission cannot be issued for the same purpose. This Court has cautioned that issuance of successive Commission will only result in creating confusions and therefore as far as possible fresh Commission cannot be issued without setting aside the previous Commissioner's plan and report. In the light of these materials I hold that the C.R.P. lacks merit and it is dismissed.

M.N. KRISHNAN, JUDGE.

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